

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO. 2111 OF 2023

1. Mr. Subhash Zaku Balwadkar
Age: 54, Occ.: Business
R/o: Hanuman Chowk, Pirangut
Hinjewadi Road, Ghotawade,
Pirangut, Pune 412 115.

2. Mr. Shahnavaj Harun Pathaan
Age: 38, Occ.: Services
R/o: A 905, Golden Palms,
Pune-Nashik Highway,
Borate Park, Moshe,
Pune 412105.

... Petitioners

Versus

1. State of Maharashtra
(Through Public Prosecutor)

2. Ms. Smita Sripadh Ambulkar
Branch Manager, Pune Branch
On behalf of Nagpur Nagrik
Sahakari Bank,
havings office address at:
Yash Elina, Opp. Karishma
Society Lane, off Karve Road
Kothrud, Pune 411 038.

... Respondents

Ms Ankita Phadke a/w Rijul Khandare for the Petitioners.

Mr Prafull Chipte i/by Sanjay Anabhawane for the Respondent No.2.

Mr K. V. Saste, APP for the Respondent No.1-State.

***CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.***

DATE : 7 JULY 2023

Order (Per R. N. Laddha, J.) :-

Heard learned counsel for the parties.

2. Rule. The Rule is made returnable forthwith, with the consent of and at the request of the learned counsel for the parties.

3. The Petitioners have filed this Criminal Writ Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, to quash FIR No. 193 of 2023 dated 18 May 2023, registered at Paud Police Station, Pune for the offence punishable under Sections 188, 447 read with Section 34 of the Indian Penal Code. The Petitioners seek to quash the FIR on the ground that they have amicably settled the dispute with Respondent No.2.

4. The learned counsel for the Petitioners and Respondents No.2 jointly stated that the disputes arose due to some loan transactions, which have been settled amicably. They submitted that continuing the prosecution would serve no purpose, given their settlement. They also submitted that the Consent Terms dated 25 May 2023 executed between Petitioners and Respondent No.2 have also been filed before the Debts Recovery Appellate Tribunal in Misc. Appeal (D) No. 144 of 2023, a copy of which is also placed on record. As per the consent terms, the loan accounts of the principal borrowers have closed in the books of the secured creditor and also the secured creditor, has released the mortgaged properties. As per the consent terms, the parties have agreed to withdraw the cases filed against each other, including the present FIR. They submitted that this case falls under the purview of the law laid down by the Hon'ble Supreme Court in *Gian Singh v/s. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. v/s. State of Punjab and Anr.*²

5. Learned APP for Respondent No.1 submits that appropriate orders may be passed.

1 (2012) 10 SCC 303.

2 (2014) 6 SCC 466.

6. Respondent No.2 has filed her consent affidavit dated 5 July 2023. Respondent No.2 is present in the Court and stated that she has no objection to the quashing of the impugned FIR against the Petitioners due to a settlement between them. Upon questioning, she confirmed the contents of her affidavit and was identified by her counsel. The learned APP has verified her original Aadhar Card, of which a self-attested copy is placed on record. Learned counsel for Respondent No.2 also tendered an authorisation letter issued by Nagpur Nagrik Sahakari Bank Limited in favour of Respondent No.2.

7. In such circumstances, allowing criminal prosecution to continue would be an abuse of the process of the Court and serve no purpose given the parties' settlement. The consent affidavit filed on behalf of Respondent No. 2 supports the prayer of quashing the FIR. In view of above, the impugned FIR No.193 of 2023, registered with Paud Police Station, Pune, against the Petitioners, needs to be quashed and set aside. Moreover, *prima facie*, no offence as alleged punishable under Section 188 of the Indian Penal Code is made out against the Petitioners.

8. Accordingly, the impugned FIR No.193 of 2023 dated

18 May 2023, registered at Paud Police Station, Pune, for the offence punishable under Sections 118 and 447 read with Section 34 of the Indian Penal Code is quashed and set aside, subject to condition that each of the Petitioner and Respondent No.2 pay a cost of Rs.25,000/- to the Police Welfare Fund, Mumbai, within four weeks of this order being uploaded.

9. Rule is made absolute in these terms, and this Petition is disposed of subject to payment of cost as directed above.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

Note:- This order is corrected as per speaking to minutes order dated 21st July 2023.

BIPIN
DHARMENDER
PRITHIANI

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